

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MOON DARNELL JARRETT,
STARIA CRICHELL JARRETT, and JASMINE
RENEE JARRETT, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

KENNETH DARNELL JARRETT,

Respondent-Appellant,

and

MONICA RENEE PETERSON, a/k/a MONICA
ROGIE PETERSON, a/k/a MONICA RONIQUE
PETERSON, a/k/a MONICA ROQUIE
PETERSON,

Respondent.

Before: Zahra, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from an order terminating his parental rights to the minor children under MCL 712A.19b(3)(g) and (j). We affirm.

Respondent-appellant first argues that the trial court assumed jurisdiction over the minor children contrary to his due process rights. Because respondent-appellant failed to file a direct appeal from the trial court's jurisdictional decision or seek a rehearing of that decision, we decline to consider this issue. The trial court's assumption of jurisdiction may not be collaterally attacked. MCL 712A.21; *In re Hatcher*, 443 Mich 426, 444; 505 NW2d 834 (1993); *In re Powers*, 208 Mich App 582, 587-588; 528 NW2d 799 (1995).

Respondent-appellant next argues that the trial court committed constitutional error when, following a review hearing, it entered a dispositional order directing the minor children's

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No. 229602
Wayne Circuit Court
Family Division
LC No. 96-338784

attorney to file a supplemental petition for termination. We conclude that respondent-appellant's claim is not properly before us because it lacks citation to supporting authority. *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992). In any event, the claim is moot because it affords no basis for relief from the order terminating respondent-appellant's parental rights. *Jackson v Thompson-McCully Co, LLC*, 239 Mich App 482, 493; 608 NW2d 531 (2000); *In re Prater*, 189 Mich App 330, 333; 471 NW2d 658 (1991). The trial court's authority to consider termination was not dependent upon the supplemental dispositional order, but rather, upon a properly filed original, amended or supplemental petition requesting termination. MCR 5.974(A)(2). We conclude that respondent-appellant's argument presents no basis for attacking the validity of the supplemental petition filed by the minor children's attorney.

We are not persuaded by respondent-appellant's argument that a trial court may only order the filing of a petition for termination at a permanency planning hearing. A trial court may enter supplemental dispositional orders considered necessary for a child's best interests. *In re Macomber*, 436 Mich 386, 397-398; 461 NW2d 671 (1990). See also MCR 5.973(B)(7)(a); MCL 712A.19(8). Further, given the opportunity afforded to respondent-appellant to be heard on the supplemental petition for termination, we reject respondent-appellant's assertion that his due process rights were violated. *In re Kirkwood*, 187 Mich App 542, 546; 468 NW2d 280 (1991).

Respondent-appellant next argues that the trial court erred in determining that the statutory grounds for termination were proven by clear and convincing evidence. As part of this argument, we note that respondent-appellant claims that the trial court committed evidentiary error. Because respondent-appellant has failed to support this latter argument with appropriate citation to either the factual record or legal authority, and does not raise any evidentiary claim in his statement of the questions presented, we conclude that any claim of evidentiary error is not properly before us. *Meagher v McNeely & Lincoln, Inc*, 212 Mich App 154, 156; 536 NW2d 851 (1995); *In re Toler*, *supra* at 477; *People v Norman*, 184 Mich App 255, 260; 457 NW2d 136 (1990).

We note, however, that child protection proceedings are treated as continuing proceedings, and evidence admitted at one hearing may be considered at all subsequent hearings. *In the Matter of LaFlure*, 48 Mich App 377, 391; 210 NW2d 482 (1973). However, the standard for admissibility will necessarily vary depending on both the purpose of the hearing and the purpose for which the evidence itself is received. If a termination decision is based on one or more circumstances new or different from that which led the court to take jurisdiction, legally admissible evidence is required to establish a statutory ground for termination. *In re Snyder*, 223 Mich App 85, 89-90; 566 NW2d 18 (1997); MCR 5.974(E)(1).

Because respondent-appellant's circumstances were not the basis for the trial court's assumption of jurisdiction over the minor children, we agree with respondent-appellant's claim that legally admissible evidence was required to establish a statutory ground for termination. Within the procedural context of the instant case, however, the material question is not whether all evidence admitted throughout the child protection proceedings or noticed by the trial court at the hearing on the supplemental petition satisfied the standard of legally admissible evidence, but rather, whether the trial court's finding of a statutory ground for termination was supported by legally admissible evidence.

Examined in this context, we are not persuaded that the trial court's determination that § 19b(3)(g) was proven by clear and convincing evidence lacked the requisite legally admissible evidence or is otherwise clearly erroneous. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989); *In re Snyder, supra*. Because only one statutory ground for termination is required, we need not consider whether termination was also appropriate under § 19b(3)(j). *In re Trejo*, 462 Mich 341, 364-365; 612 NW2d 407 (2000).

Finally, respondent-appellant argues that the trial court erred in finding that termination of his parental rights was in the minor children's best interests. We note that the trial court went beyond the statutory standard, MCL 712A.19b(5), by affirmatively finding that termination was in the minor children's best interests. *In re Trejo, supra* at 364 n 19. Nevertheless, based on a review of the entire record, we conclude that the trial court's assessment of the minor children's best interests is not clearly erroneous. *Id.* at 365.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael R. Smolenski
/s/ Michael J. Talbot